

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL CASE NO. 16-20062

CIVIL CASE NO. 22-12507

v.

HONORABLE DENISE PAGE HOOD

D-2 DARRIYON JERON MILLS,

Defendant.

**ORDER DENYING DEFENDANT’S AMENDED MOTIONS  
UNDER 28 U.S.C. § 2255 [ECF Nos. 773, 774], and DISMISSING  
WITH PREJUDICE CIVIL CASE NO. 22-12507**

**I. Introduction**

Defendant and many others were charged in a RICO indictment, and Defendant ultimately pleaded guilty to Count 1 (RICO conspiracy) and Count 7 (Using a Weapon During and in Relation to a Crime of Violence) of the Superseding Indictment. [Dkt. No. 355] The guideline range set forth in the Plea Agreement was 360 months to life, followed by a mandatory minimum of 84 months imprisonment. *Id.* at Paragraph 2.B. On January 12, 2018, Defendant was sentenced well below the guideline range, to a total imprisonment term of 288 months (204 months on Count 1 and 84 months on Count 7, to be served consecutively). [ECF No. 552] Defendant’s Plea Agreement provided for a waiver of appeal if he was sentenced

below 360 months, [Dkt. No. 355, at Paragraph 7], and Defendant did not file an appeal.

On August 1, 2019, Defendant filed a Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 (the “2255 Motion”). [ECF No. 647] After the Government filed a response and Defendant filed numerous additional documents, the Court denied the 2255 Motion in an Order dated October 4, 2022 (“2255 Order”). ECF No. 770.

In a document Defendant dated September 11, 2022, Defendant prepared an “Amended Motion [to Vacate under] Title 28 USC 2255;” it was postmarked October 11, 2022 and docketed On October 19, 2022. ECF No. 773 (2 pages, plus envelope). In a document Defendant dated September 4, 2022, Defendant prepared another “Amended 28 USC 2255 Motion” to Vacate; it also was postmarked October 11, 2022 and filed on October 19, 2022. ECF No. 774 (4 pages, plus envelope). Collectively, the Court shall treat those two motions as an “Amended Motion to Vacate.” The Court has not required the Government to file a response to the Amended Motion to Vacate.

## **II. Analysis**

As noted above, the Court denied Defendant’s 2255 Motion on October 4, 2022. Defendant prepared both documents that constitute the Amended Motion to Vacate prior to the Court entering the 2255 Order, but they were not received until

after the Court issued the 2255 Order. Concurrent with this Order, the Court also has issued an Order on Defendant's Motion for Reduction and Sentence Modification ("Sentence Reduction Order").

The Court finds that the arguments set forth in the Amended Motion to Vacate are generally the same as arguments Defendant set forth in the 2255 Order or the Sentence Reduction Order. Specifically, in the Amended Motion to Vacate, Defendant has set forth arguments regarding: (1) *United States v. Davis*, 139 S.Ct. 2319 (2019), which was addressed in the 2255 Order; (2) *United States v. Borden*, 141 S.Ct. 1817 (2021), which was addressed in the Sentence Reduction Order; (3) *United States v. Jones*, 935 F.3d 266 (5th Cir. 2019), which was addressed in the 2255 Order; (4) guideline sentence calculations, which were addressed in the Sentence Reduction Order; and (5) whether carjacking is a "crime of violence," which was addressed in the 2255 Order.

As with the arguments previously made by Defendant and addressed in the 2255 Order and the Sentence Reduction Order, the arguments in the Amended Motion to Vacate are untimely. For the same reasons set forth in the 2255 Order and the Sentence Reduction Order, Defendant's arguments in the Amended Motion to Vacate lack merit. Accordingly, the Court concludes that the Amended Motion to Vacate must be denied.

### **III. Conclusion**

Accordingly, for the reasons set forth above,

IT IS ORDERED that Defendant's "Amended Motion [to Vacate under] Title 28 USC 2255," ECF No. 773, is **DENIED**.

IT IS FURTHER ORDERED that Defendant's "Amended 28 USC 2255 Motion" to Vacate, ECF No. 774, is **DENIED**.

IT IS FURTHER ORDERED that Civil Case No. 22-12507 is **DISMISSED WITH PREJUDICE and designated as CLOSED**.

IT IS ORDERED.

DATED: December 8, 2022

s/Denise Page Hood

DENISE PAGE HOOD

United States District Judge